

### REMARKS

This responds to the Final Office Action dated January 23, 2009.

Claims 1, 3, 23, and 28 are amended and claim 27 is canceled. As a result, claims 1, 3-7, 23-24, 26, and 28-30 are now pending in this application.

#### § 103 Rejection of the Claims

Claims 1, 3-7, 23-24, 26, and 29-30 were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,986,156 to Rodriguez et al. (hereinafter "Rodriguez") in view of U.S. Patent Application Publication No. 2001/0007147 to Goldschmidt et al. (hereinafter "Goldschmidt") and further in view of U.S. Patent Application Publication No. 2003/0149988 to Ellis et al. (hereinafter "Ellis"). Claim 28 was rejected under 35 U.S.C. § 103(a) as being obvious over Rodriguez in view of Goldschmidt, Ellis, and further in view of U.S. Patent No. 6,262,721 to Tsukidate et al. (hereinafter "Tsukidate"). As will be fully explained below, the Applicants respectfully assert that Tsukidate fails to disclose and teach the subject matter for which they are relied upon, and amended independent claims 1, 3, and 23 and all dependent claims, are not obvious over Rodriguez in view of Goldschmidt, Ellis, and Tsukidate.

Although the Applicants believe that the previous pending claims are defined over the art of record, the Applicants have incorporated the recitations of dependent claim 27 into independent claims 1, 3, and 23 to clarify that, in part, the methods further comprise "determin[ing] a characteristic" of a version of a program, "associat[ing] an advertisement with said characteristic," and broadcasting the version of the program "and said advertisement with content information" for the version of the program.

In support of the 35 U.S.C. § 103(a) rejections, the Office Action asserts that Tsukidate discloses the determination of the characteristic and association of the advertisement with said characteristic, as previously recited in dependent claim 27 and also in amended independent claims 1, 3, and 23. In the portion of Tsukidate relied upon by the Office Action (col. 12, lines 40-50), Tsukidate discloses:

As an example, in an operation of the broadcast system according to the present invention, the service edition information Isa of a broadcasting system is broadcasted from the center station before

service content information (for example, including contents of the broadcasting program, contents of a commercial message attached to the broadcasting program and contents of other information) is broadcasted.

This portion of simply of Tsukidate discloses that “contents of the broadcasting program” and “contents of a commercial message attached to the broadcasting program” are “broadcasted from the center station.” The mere attachment of contents of a commercial message to a broadcasting program, as disclosed in Tsukidate, does not disclose amended independent claims 1, 3, and 23 recitations of “determin[ing] a characteristic” of a version of a program and “associat [ing] an advertisement with said characteristic.” As a result, Tsukidate does not teach and therefore does not suggest to one having ordinary skill in the art “determin[ing] a characteristic” of a version of a program, “associat[ing] an advertisement with said characteristic,” and broadcasting the version of the program “and said advertisement with content information” for the version of the program, as recited in amended independent claims 1, 3, and 23.

Furthermore, as discussed previously in the amendment mailed October 23, 2008, the Applicants continue to assert that Rodriguez actually discourages or teaches away from the system disclosed by Ellis and, as a result, one having ordinary skill in the art would not have combined Rodriguez and Ellis in the manner proposed by the Office Action.

Accordingly, for the above-stated reasons, the Applicants submit that amended independent claims 1, 3, and 23 are patentable under 35 U.S.C. §103(a) over Rodriguez in view of Goldschmidt, Ellis, and Tsukidate. Claims 4-7, 24, and 26, 28-30, each of which depends directly or indirectly from independent claims 1, 3 or 23, are likewise patentable under 35 U.S.C. §103(a) over Rodriguez in view of Goldschmidt, Ellis, and Tsukidate for at least the same reasons set forth for independent claims 1, 3, and 23. Accordingly, the Applicants request the obviousness rejections of pending claims 1, 3-7, 23-24, and 26-30 to be withdrawn.

**CONCLUSION**

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone the undersigned at (408) 278-4047 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 20, 2009.

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